No. 85-1185

Supreme Court, U.S.
FILED
DEC 14 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

October Term, 1985

Robert Wheaton, Appellant

Versus

The City of Oklahoma City; State of Oklahoma; The Court of Criminal Appeals of the State of Okla., Ed Parks, Presiding Judge, Tom Brett, Judge, Hez Bussey, Judge. Appellees

On Appeal from the Court of Criminal Appeals of the State of Oklahoma

Jurisdictional Statement

The City of Oklahoma City
Robert Allen, Counselor
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Attorney for the Appellee
(405) 231-2451

Robert Wheaton
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Pro se for the
Appellant

The Court of Criminal Appeals of the State of Oklahoma, Michael Turpen, Attorney General, for Oklahoma, State Capital, Okc,Okla. 73105.
(405) 521-3921 Attorney for the Appellees

QUESTIONS PRESENTED

(1). Whether proceedings provided by Title 11 O.S.1981, Section 27-101 thru 27-131 and Oklahoma Constitution Article II, Section 17, Courts of No Record, are repugnant to the United States Constitution Amendment 5, Double Jeopardy Clause and Amendment 14 Due Process Clause. By not providing or establishing a record of an acquittal that shows when the defense of Double Jeopardy, Collateral Estoppel, Res Adjudicata may be available to the defendant, in the event further proceedings are brought against him. As in this case.

Ashe V. Swenson, Warden, 397 U.S. 436 (1970) at 441, We granted certiorari to consider the important constitutional question this case presents, 393 U.S. 1115.

(2). Whether the lower courts properly interpeted the guidlines to be followed as set down in Ashe V. Swenson 397 U.S. 436 (1970) at 442-444, as applied in reviewing a general verdict of not guilty rendered in a court of no record where no transcript of proceedings and other elements necessary are provided to support a defense of Collateral Estoppel, Res Adjudicata, and other concepts of Double Jeopardy.

> Ludwig V. Massachusetts, 427 U.S. 618 (1976) at 631, " Nor is there any doubt that acquittal at the first tier precludes reprosecution".
>
> Russell V. United States, 369 U.S. 749, 763-64 (1962).
>
> United States V. Hinkle, 637 F2d 1154 (1981) at 1157, " Furthermore, it must establish a record that shows when the defense of double jeopardy may be available to the defendant in the event future proceedings are brought against him ".

Quinnelly V. City of Prichard , 292 Ala. 178 (1974) at 179 , "Acquittal by recorder's court of city of charges against landowner of violating city ordinance by operating dirt pit barred, under doctrine of res judicata, further prosecutions for same offense based on subsequent conduct.

City of Chicago V. Provus , 115 Ill App. 2d 176 (1969) at 185-186, [11,12]....." If an adverse final judgment is entered against the municipality by a court having jurisdiction of the parties and the subject matter and the municipality is of the opinion that the judgment is erroneous, it should and must directly appeal the judgment rather than seek to reverse it in collateral proceeding. Every presumption will be indulged in favor of the validity of the judgment when it is collaterally attacked. "

Wilk V. Gillroy, 169 N.Y.S. 2d 473 (1957) at 473 "Where property owner had been acquitted ...., with respect to violation of an area rule of the subject premises, under the principle of res judicata no other prosecution could be instituted against the owner because of the same violations".

Kanas City V. Bott ,
509 S.W. 2d 42 (1974) at 46,
" [2,3] ..... the protection of the Fifth Amendment right to stand on his acquittal, even though it be of a municipal offense and by a municipal court"

People V. Parelli ,
158 N.Y.S. 644 (1916) at 645
"(2) As to the first point..... the defendant had on two occasions been charged with a violation of the same ordinance, in the same place, and under the same circumstances-..., and that on the two prior occasions Magistrate Murphy had decided that the act complained of was not a violation of the law.
I am of the opinion that the decision of Magistrate Murphy was an adjudication which was binding on Magistrate House, and that the latter magistrate had no authority to reverse the decision of Magistrate Murphy. The case presents the anomaly of one, Magistrate House, imposing a severe penalty on the defendant appellant for doing an act which Magistrate Murphy had twice declared was entirely proper. Such conflicting decisions would certainly tend to cofusion, and would not promote respect for the acts of our Magistrates."

Petrus V. Robbins ,
83 S.E. 2d 408 at 412, " [2] The civil and police court is concededly one of limited jurisdiction, and not a court of record..... That being true, its final judgment on the merits may be invoked by a plea of res adjudicata or estoppel of record as a bar to further litigation between the same parties of the identical issues litigated and decided in that court. [3] A plea of res adjudicata or estoppel of record may be successfully invoked upon a final judgment or decree of a court of inferior or limited jurisdiction,....,provided the inferior court had jurisdiction of the parties and of the subject matter. "

Doshner V. People,
274 N.Y.S. 2d 964 (1966) at 967 "This Court is bound,....., to respect the judgment of acquittal and to give effect to the intent and meaning of the adjudication of the criminal Court. Under the principle of res judicata, no other prosecution may be instituted against this petitioner by reason of these very same violations".

Sealfon V. United States,
332 U.S. 575 (1948) at 578 "The doctrine of res judicata is applicable to criminal ... ..., and operates to conclude those matters in issue which have been determined by a previous verdict, even though the offenses be different."

LIST OF PARTIES TO PROCEEDINGS BELOW

Appellant Below:

Robert Wheaton

Appellees Below:

City of Oklahoma City,

The Court of Criminal Appeals of the State of Oklahoma, Ed Parks, Presiding Judge, Tom Brett, Judge, Hez Bussey , Judge.

The State of Oklahoma.

Interested Party Below:

Michael Turpen, as Attorney General of the State of Oklahoma, because of the Constitutionality of State Statutes.

TABLE OF CONTENTS

Page

Questions Presented 0

List of Parties to Proceedings Below 5

Table of Authorities iii

Opinions Below 6

Jurisdiction 6

Constitutional Provisions and Rules 8

Statement of the Case 9

The Question is Substantial 14

Conclusion 17

Affidavit of Service 18

Appendicies:

1. Final Order Denying Rehearing 11-1-85 Court of Criminal Appeals of the State of Oklahoma A1
2. Opinion 2-5-85 Court of Criminal Appeals of the State of Okla. A2

TABLE OF CONTENTS (Continued)

Page

3. Petition for Rehearing 2-19-85 Court of Criminal Appeals of the State of Oklahoma A3

4. Notice of Appeal to the United States Supreme Court 11-7-85, Court of Criminal Appeals of the State of Ok. A4

5. Oklahoma Statutes Title 11 Section 27-101 thru 27-132 .....A5

6. CC-6486462 information 9-16-82 guilty Oklahoma City Court of No Record A6

7. CC-6336761 information 10-8-81 acquittal Oklahoma City Court of No Record ...A7

TABLE OF AUTHORITIES

United States Supreme Court Cases:

Ashe v. Swenson, Warden ,
397 U.S. 436 (1970) 0,1

Colten v. Kentucky ,
407 U.S. 104 (1972) 7,15

Green v. United States ,
355 U.S. 184 (1957) 16

Ludwig v. Massachusetts ,
427 U.S. 618 (1976) 1,7,15

North v. Russel ,
427 U.S. 328 (1976) 7

Russel v. United States ,
369 U.S. 749 (1962) 1

Sealfon v. United States ,
332 U.S. 575 (1948) 4

Ward v. Village of Monroeville ,
409 U.S. 57 (1972) 7

Other Cases:

City of Chicago v. Provus ,
115 Ill App. 2d 176 (1969) 2

Doshner v. People ,
274 N.Y.S. 2d 964 (1966) 4

Kanas City v. Bott ,
509 S.W. 2d 42 (1974) 3,15

People v. Parelli ,
158 N.Y.S. 644 (1916) 3

Petrus v. Robbins ,
83 S.E. 2d 408 4

Quinelly v. CIty of Prichard ,
292 Ala. 178 (1974) 2

United States v. Hinkle ,
637 F2d 1154 (1981) 1

Wilk v. Gillroy ,
169 N.Y.S. 2d 473 (1957) 2

CONSTITUTIONS

United States Constitution,
Amendment Five 0,8,13

United States Constitution,
Amendment Fourteen 0,8,13

Oklahoma Constitution,
Article II, Section 17 0,8

STATUTES

28 U.S.C. 1257 7

Oklahoma Statutes Title 11
Section 27-101 thru 27-132
(appendix 5) 0,8

OPINIONS BELOW

The final order, from the Court of Criminal Appeals of the State of Oklahoma, ORDER DENYING APPLICATION FOR REHEARING AND DIRECTING ISSUANCE OF MANDATE dated November 1, 1985, which appears in the appendix hereto, page 1, is not reported.

The Opinions of the Court of Criminal Appeals of the State of Oklahoma, dated February 5, 1985, which appears in the appendix hereto, page 2, is not reported.

JURISDICTION

The OPINION of the Court of Criminal Appeals of the State of Oklahoma, affirming the judgment and sentence of TWENTYFIVE dollars fine from the Municipal Court Not of Record of the City of Oklahoma City and trial Denovo in the District Court of Oklahoma County, was entered on February 5, 1985.

Thereafter a timely Petition For Rehearing was filed on February 19,1985 (see appendix page 3). The Petition For Rehearing was denied on November 1, 1985.

A timely notice of appeal to this Court was filed in the Court of Criminal Appeals of the State of Oklahoma on November 7, 1985. (see appendix page 4).

This appeal is being docketed in this Court within 90 days from the denial of rehearing below. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257.

Colten V. Kentucky ,
407 U.S. 104 (1972) at 108,
We noted probable jurisdiction,
404 U.S. 1014 (1972).

Ludwig V. Massachusettes ,
427 U.S. 618 (1976) at 624,
We noted Probable jurisdiction,
423 U.S. 945 (1975).

North V. Russell ,
427 U.S. 328 (1976) at 333,
On the second appeal to this court we noted probable jurisdiction, 422 U.S. 1040 (1975).

Ward V. Village of Monroeville,
409 U.S. 57 (1972) at 58,
We granted certiorari, 404 U.S. 1058 (1972).

CONSTITUTIONAL PROVISIONS AND RULES

CONSTITUTION OF THE UNITED STATES

AMENDMENT 5. Capital crimes; double jeopardy; self-incrimination; due process; just compensation for property.
No person shall.....; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be.... ..,without due process of law;.....

AMENDMENT 14. Citizenship rights not to be abridged by states.
Section 1. All persons..... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

CONSTITUTION OF THE STATE OF OKLAHOMA

Article 2, Section 17. Indictment or information - Peliminary examination - Prosecution in courts not of record.

No person shall.....examination. Prosecutions may be instituted in courts not of record upon a duly verified complaint.

OKLAHOMA STATUTES TITLE 11
Section 27-101 thru 27-132 (see appendix 5).

STATEMENT OF THE CASE

This case originated in the Municipal Court Not of Record of the City of Oklahoma City, appellant was charged with violating zoning ordinance 3200.4 B1, by way of criminal information in case No.6486462 said violation being that on August 25, 1982, the appellant was operating a retail store at a location that was in an area zoned residential.

Prior to issuance of criminal information above, the issuing officer was informed that this charge would place appellant in double jeopardy if prosecuted, by way of previous acquittal in criminal information No.6336761. Which was on October 8, 1981 adjudicated in the Municipal Court Not of Record of the City of OKlahoma City, at which time the issue was litigated in the appellants favor, that being the appellant could legally operate his business at that location in the future. (see appendix 7).

The appellant was subsequently prosecuted and found guilty in the Municipal Court Not of Record of the City of Oklahoma City by

the Honorable Patrick O. Delaney on September 16, 1982. (see appendix 6).

The Municipal court heard three identical cases at one time, the charge for Aug.24,1982 and Aug.26,1982 were dismissed. (see original record page 6 & 7). This case is a clear abuse of police power by multiple prosecution after an acquittal.

The facts of the case underlying this appeal are as follows:

The Federal questions involved in this case were first raised in the Municipal Court Not of Record of the City of Oklahoma City, on September 16,1982, by written and oral plea of Double Jeopardy. The Honorable Judge Patrick O. Delaney overruled plea. No available means to enter written plea of Double Jeopardy into courts record. Court record only allowed a not guilty or guilty plea.

On timely appeal by trial De novo to the District Court of Oklahoma County the appellant filed on November 1,1982, a Plea in Ab-

atement, Double Jeopardy. (original record page 4 thru 9). On June 6,1983 filed amended Plea in Abatement, Not Guilty - Former acquittal. (original record page 10). On June 13,1983, Motion to Dismiss - Former Jeopardy was filed. (original record page 11). On July 8,1983, filed brief on Double Jeopardy. (original record page 12 and 13). On July 8,1983, the Honorable Judge Creston B. Williamson overruled motion to dismiss for Double Jeopardy. Order was filed Aug. 10,1983 (see original record page 14).

In the District Court of Oklahoma County on August 8,1983, before the Honorable Floyd W. Taylor, Special Judge, at trial De novo, a oral attempt to plea not guilty - former acquittal was made by the appellant. The prosecution objected to plea and objection was sustained. (see transcript page 6 thru 9).

Also during proceedings, on direct examination of witness, Thomas Young, the Appellant made several attempts to establish his Double Jeopardy, Collateral Estoppel, Res Ad-

judicata defense in opposition of repeated objections by the prosecution which were sustained. The court requested the prosecutor to move if he wanted the testimony struck from the record and he did. (see transcript page 42 thru 48).

The District Court sentenced the Appellant to a $25.00 fine and affirmed the lower courts ruling. (see transcript page 55).

On September 6,1983, Appellant filed a timely motion for a new trial in which he raised the defense of former jeopardy. (Trial docket). Motion was heard and overruled on September 23,1983, and order of overruling was filed October 6,1983. (Trial docket).

On appeal to the Court of Criminal Appeals of the State of Oklahoma the Appellant raised in proposition No. 1, 3, 4, and 5 of his Petition - In - Error, a Double Jeopardy defense. (Trial docket). In Appellants brief to that court, he argued, in proposition No. 1, 3, 4, and 5, the merits of Double Jeopardy - Former Acquittal, Res-

Adjudicata , and Collateral Estoppel, as a defense an also that the lower courts erred in not ruling this case constituted Double Jeopardy.

The Court of Criminal Appeals of the State of Oklahoma in its Opinion dated Feb. 5, 1985 (see appendix 2) stated " There is nothing in the record to support an application of this doctrine. ", as applied to the doctrine of Collateral Estoppel.

Subsequently appellant filed a timely Petition for Rehearing (see appendix 3) in which he asked the court to reconsider the Municipal Court Not of Record acquittal as applied to the Collateral Estoppel, Res Adjudicata, and other concepts of Double Jeopardy clause guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution.

And if they chose not to apply less stringent guidlines to a general verdict of not guilty from a court of no record, to then review the constitutionality of

Oklahoma courts not of record which provide nothing more than a complaint as the complete, entire record of such proceedings.

The court without opinion on Nov. 1, 1985 issued an order denying application for rehearing and directing issuance of mandate. (see appendix 1).

The Court of Criminal Appeals of the State of Oklahomas opinion and order denying rehearing on substantial constitutional questions brings this case within the jurisdiction of the Supreme Court of the United States.

THE QUESTION IS SUBSTANTIAL

This appeal presents important and substantial constitutional questions, as herein after described in that:

Oklahoma, like many other states, has a two tier court system for adjudicating criminal cases.

Some states including Oklahoma do not record proceedings, (see Colten V. Kentucky, 407 U.S. 104, 112n4 & 114n10 (1972), which indicates that the issues raised effect several million citizens annually.

In Oklahoma City for example, for the physical year ending June 30, 1980, in a two page leaflet distributed by the Oklahoma City Municipal Court states, "The overall activity of the municipal court has increased significantly over the past five years. Over 100,000 citizens pay fines and appear in court annually, more than any other court in the state of Oklahoma.".

Further importance is the applicability of a Double Jeopardy, Collateral Estoppel, Res Adjudicata, Defense as applied to a two tier court system in which the first tier provides no record of proceeding. (see Ludwig V. Massachusetts, 427 U.S., at 631 (1976) "nor is there any doubt that acquittal at the first tier precludes reprosecution."). (Kanas City V. Bott, 509 S.W. 2d 42 (1974).

Also substantial is whether such a system meets constitutional requirements of Due Process when it does not provide a record that is sufficient for defendant to stand on and prevent repeated attempts of vexation, harassment, and intimidation by multiple prosecutions. (Green V. U.S. 355 U.S. 184, 187 - 188 (1957).

Oklahomas two tier court system is fundamentally unfair, in that it does not allow a change of venue or any other method to avoid the first tier court of no record, in which even the purist form of double jeopardy is not applicable because there is no evidence preserved for another court to apply the same evidence test, or provide all the elements necessary to establish a res adjudicata, collateral estoppel defense after an acquittal.

CONCLUSION

For the reasons stated herein, Appellant submits that this appeal brings before the court substantial and important constitutional questions which require plenary consideration, with briefs on the merits and oral arguments for their resolution, this court should note probable jurisdiction of this appeal.

Respectfully submitted,

Robert E. Wheaton

Robert E. Wheaton

Pro Se, Appellant

AFFIDAVIT OF SERVICE-SERVICE BY MAIL

State of Oklahoma:

County of Oklahoma:

I, Robert Wheaton, depose and say that I am the, appellant pro se herein, and that on January 13,1986, pursuant to Rule 28, Rules of the Supreme Court, I served three copies of the foregoing, Jurisdictional Statement & Appendix , on each of the parties required to be served herein, as follows:

On the City of Oklahoma City, the appellee herein, by mailing the copies in a duly addressed envelope with first class postage prepaid, to Robert Allen , Municipal Counselor, counsel of record for said the City of Oklahoma City at his office at 309 Municipal Building, Okla. City, Okla. 73102

On the State of Oklahoma, the appellee herein, by mailing the copies in a duly addressed envelope, with first class postage prepaid, to Michael Turpen, Attorney General, counsel of record for said the State of Oklahoma, at his office at State Capital,Oklahoma City, Oklahoma 73105.

On Ed Parks, Presiding Judge; Tom Brett, Judge; Hez Bussey, Judge, of the Court of Criminal Appeals of the State of Oklahoma, the appellees herein, by mailing the copies in a duly addressed envelope, with first class postage prepaid to their office at State Capital, Okla. City, Okla. 73105.

All parties required to be served have been servel.

Robert Wheaton

Robert Wheaton
2810 S. Harvey
Okc,Okla. 73109

Subscribed and sworn to before me on January 10, 1986.

/s/ Jayne Myler
Notary

My Commission expires 5-8-89.

APPENDIX 1.

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Robert Wheaton vs. City of Oklahoma City

NO. M-83-612 Filed Nov. 1, 1985

ORDER DENYING APPLICATION FOR REHEARING AND DIRECTING ISSUANCE OF MANDATE

Now, on this, the 30th day of October , 1985, having examined the petitioner's application for rehearing in the above styled and numbered cause, and having been fully advised of the premises, this Court finds that it should be, and the same is hereby denied.

The Clerk of this Court is ordered to issue the mandate forthwith.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 1st day of November,1985.

/s/ Ed Parks, Presiding Judge

/s/ Tom Brett, Judge

/s/ Hez Bussey, Judge

ATTEST:

/s/ James Patterson, Clerk

APPENDIX 2.

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Robert Wheaton vs. City of Oklahoma City

NO. M-83-612 Filed Feb. 5, 1985

O P I N I O N

PARKS, PRESIDING JUDGE:

The appellant, Robert E. Wheaton, was convicted of a zoning violation in the City of Oklahoma City, to wit: Operating a Business in a Residential Zone, and was fined $25.00. He appeals pro se.

The twelve propositions of error asserted by appellant can be dealt with in three categories: 1) defense of double jeopardy and related concepts; 2) procedural errors committed by the court; and 3) the judgment and conviction was not supported by the evidence or the law.

Appellant owns a house at 600 West Commerce in Oklahoma City where he operates a used merchandise business. There is a sign on the property indicating it is a business and open to the public. Appellant acquired the property by deed on August 31, 1977. The property has had an R-2 zoning or the equivalent continuously since 1929. However, appellant applied for a license to operate a used merchandise store at this house in the spring of 1981. A license was issued based on a verification that the property had a zoning classification that was compatible with the business appellant wanted to operate. Sometime during the first year of operation, appellant was cited for operating a retail business in a residential zone, which is the same ordinance violation that is the subject of this appeal. He was acquitted of that charge.

It was discovered in that proceeding that the zoning verification and therefore the license had been issued in error. When Appellant applied for renewal of his license, it was denied. The issue on this appeal is not the operation of an unlicensed business, but the zoning violation.

Appellant continued his business after his license expired and apparently did not initiate any action with the city to permit him to operate the business as an exception to the zoning on the property. Ultimately the city again cited appellant for operating a business in a residential zone. This citation was issued on August 25,1982.

Appellant appeared pro se at his trial before the Oklahoma City Municipal Court. The court found him guilty and fined him $25.00. He appealed de novo to the District Court of Oklahoma County. Appellant again appeared pro se and was found guilty and fined

$25.00. It is from the trial de novo appellant brings this appeal.

In both lower court trials, appellant claimed a defense of double jeopardy based on his acquittal the previous year. The record clearly shows the offense charged is identical to the charge the preceeding year. The violation, however, occurred on different dates. An essential element of each violation is the date of occurrence. The court correctly ruled that defense of double jeopardy did not apply. Ferguson v. State , 644 P.2d 121 (Okl.Cr.1982).

Appellant also claims collateral estoppel applies in this case. To properly raise the issue of collateral estoppel, appellant should have demonstrated to the trial court the first acquittal was a final determination of the ultimate fact in issue, which he did not do. An acquittal could have been entered for a variety of reasons, some of which would have no application to the

doctrine of collateral estoppel. There is nothing in the record to support an application of this doctrine. Buckaloo v. State ,650 P.2d 885 (Okl.Cr.1982), State v. Conway , 661 P.2d 1355 (Okl.Cr.1983).

An examination of the record before this court does not reveal any procedural errors committed by the trial court. As frequently found in a pro se trial , the court tried to assist appellant in presentation of his defense. There are some procedural differences between misdemeanor and felony trials. The procedure for municipal courts is the same as misdemeanor trials in the enforcement of state statutes, 11 O.S. 198I, section 27-113. Several of appellant's complaints would have been tendable only if his offense had been a felony.

Although appellant did not object at trial to the sentence imposed by the court , he has raised that issue on appeal. Appellant claims the city should have filed the penal ordinance under which he was sentenced with

the court. He makes no claim the penalty was excessive under the circumstances or that it exceeds the limit of the ordinance. The Evidence Code, 12 O.S. 1981, section 2201 , states a court may take judicial notice of ordinances. However, the court must take judicial notice of ordinances if the municipality has compiled and published its ordinances. 11 O.S. 1981, section 14-110.

Finding no reversible error, this judgment and sentence is AFFIRMED.

AN APPEAL FROM THE MUNICIPAL COURT OF OKLAHOMA CITY,OKLAHOMA, THE HONORABLE PATRICK O. DELANEY, DISTRICT JUDGE ROBERT E. WHEATON, appellant, was convicted of Violating Zoning Ordinance 3200.4 B (1), in the Municipal Court of Oklahoma City,Oklahoma, sentenced to a $25.00 fine,and appeals. AFFIRMED.

ROBERT E. WHEATON
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PRO SE

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MUNICIPAL COUNSELOR
STEVEN "L" GARSIDE
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OKLAHOMA CITY, OK 73102
ATTORNEYS FOR APPELLEE

Opinion by: Parks, P.J.
Brett, J.: Concurs
Bussey, J.: Concurs in Results

APPENDIX 3.

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Robert Wheaton vs. City of Oklahoma City

NO. M-83-612 Filed Feb. 19, 1985

PETITION FOR REHEARING

Comes now the Appellant, Robert Wheaton Petitioning this court for a Rehearing of this cause based on the following grounds:

That this court stated in its opinion reviewing this case that the Appellant did not demonstrate to the trial court the first acquittal was a final determination of the ultimate fact in issue. And that there is nothing in the record to support an application of the doctrine of collateral estoppel.

The petitioner first states that he believes that his right to the defense of collateral estoppel, res ajudicata guaranteed by the Fifth amendment of the U.S. Constitution has been abridged, by

the fact that the proceeding the petitioner relies on as collateral estoppel, res a-judicata took place in the municipal court not of record of the city of oklahoma city, case no. CC-6336761. And the entire record of proceedings provided by 11 O.S. 1981, Section 27-101 thru 27-131 and Oklahoma Constitution, Article II Section 17 is a written duly verified complaint which was presented to the trial court on more than one occasion.

This being case the petitioner presented all of what the laws of oklahoma allow him.

Thus based on this set of facts this court has put the petitioner in an impossible sitution by applying the guidelines setforth for a court of record.

The cases cited by this court refer to courts of record proceedings in which a transcript of proceedings and other elements would be available to a defendant.

This court has in effect set a dangerous

precedent in that even though a defendant as in this case is acquitted of a violation in a court not of record said defendant can not rely upon that acquittal even though it is based upon reasons applicable to collateral estoppel, res ajudicata.

That being true this court is then in effect giving the city a no lose situation because they are entitled to prosecute in the face of an adverse ruling without any possible chance of being collaterally estopped.

This court should not apply such stringent guide lines to a general verdict of not guilty rendered in a municipal court not of record in that no transcript of proceedings and other elements necessary are not provided by Oklahoma law to support a defense of collateral estoppel, res ajudicata and other concepts of double jeopardy.

The petitioner also believes that the preceeding circumstances raised are a direct result of this courts opinion which was based

on an insufficiency or lack of necessary record to allow a defense of collateral estoppel guaranteed by the fifth amendment of the U.S. Constitution.

The petitioner respectfully request of this honorable court a rehearing on the constitutionality of the Oklahoma city municipal court of no record and the guidelines to be applied to a court of no record acquittal when a defense of collateral estoppel is raised.

The petitioner ask this court to do what he believes the Federal judiciary would do in fairness of justice and grant a rehearing.

Respectfully submitted,

/s/ Robert Wheaton
Appellant
2810 S. Harvey
OKC,OK. 73109
(405) 235-0955

Certificate of proof of service

I hereby certify that true and correct copy of the above and foregoing PETITION FOR REHEARING, was mailed this 19 day of Feb.1985 to Attorney General for the State of Oklahoma Capitol Building, OKC,OK.73105; District Attorney Oklahoma County, Oklahoma County Court Building, OKC,OK.73102 and City Attorney for Oklahoma City,200 N.Walker, OKC,OK.73102 with sufficient postage thereon fully prepaid.

/s/ Robert Wheaton

APPENDIX 4.

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Robert Wheaton, appellant,

vs.

City of Oklahoma City, The Court of Criminal Appeals of the State of Oklahoma, Ed Parks, Presiding Judge, Tom Brett, Judge, Hez Bussey Judge; The State of Oklahoma, appellees.

NO. M-83-612 Filed Nov. 7,1985

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Robert Wheaton , the Appellant above named, hereby appeals to the SUPREME COURT OF THE UNITED STATES from the final order of the Court of Criminal Appeals of the State of Oklahoma, Denying Application for Rehearing and Directing Issuance of Mandate, entered in this action on

the 1st day of November, 1985.

This Appeal is taken pursuant to Title 28, United States Code, Section 1257.

Dated November 7,1985.

/s/ Robert Wheaton

PRO SE, Appellant
2810 S.Harvey
Okc,Ok. 73109
(405) 235-0955

APPENDIX 5.

ARTICLE XXVII. COURTS

Sec.

27-101. Creation of municipal court not of record.
27-102. Resolution of governing body.
27-103. Jurisdiction.
27-104. Judges.
27-105. Prohibition on change of venue—Disqualification of judge.
27-106. Acting judge—Alternate judge—Compensation.
27-107. Vacancies in office of judge.
27-108. Municipal attorney as prosecuting officer.
27-109. Clerk of court—Duties.
27-110. Court marshal—Duties.
27-111. Bond of clerk and judge—Form.
27-112. Fees, fines and forfeitures—Dispositions.
27-113. Procedure—Judicial notice of statutes and ordinances—Writs and process.
27-114. Rules for conduct of court business.
27-115. Prosecutions by verified complaint—Style.
27-116. Arraignment—Fines in lieu of appearance.
27-117. Arrests—Release by signing citation—Bail—Amount and conditions—Temporary cash bond.
27-118. Failure to appear according to terms of bond—Forfeiture.
27-119. Jury trials—Qualifications of jurors.
27-120. Selection and summons of jurors.
27-121. Fees and mileage of jurors and witnesses.
27-122. Enforcement of payment of fines or costs by imprisonment—Persons unable to pay.
27-123. Suspension of judgment or costs—Reconfinement.
27-124. Supervision of juveniles on parole or probation.
27-125. Contempt of court.
27-126. Costs.
27-127. Prosecution for same offense in another court prohibited.
27-128. Writs of mandamus, prohibition and certiorari.
27-129. Appeals.
27-130. District attorney to defend appeals in certain cases.
27-131. Orders relative to procedures and practices by Supreme Court.
27-132. Appeal to court of criminal appeals.

BEST AVAILABLE COPY

§ 27-101. Creation of municipal court not of record

A municipality may create a Municipal Court, as provided in this article, which shall be a court not of record. This court may be created in addition to a Municipal Criminal Court of Record. References in Sections 27-101 through 27-131 of this title to the municipal court shall mean the municipal court not of record established under the authority of the provisions of this article.

Laws 1977, c. 256, § 27-101, eff. July 1, 1978.

§ 27-102. Resolution of governing body

Before a municipal court not of record may be put into operation, the municipal governing body shall determine by resolution that the efficient disposition of cases involving the violation of municipal ordinances necessitates putting the court into operation. The governing body shall cause certified copies of the resolution to be filed in the offices, respectively, of the county clerk of each county in which the municipality is located, and of the Clerk of the Supreme Court. The resolution and the filing thereof shall be judicially noticed in all courts of this state.

Laws 1977, c. 256, § 27-102, eff. July 1, 1978.

§ 27-103. Jurisdiction

The municipal court shall have original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of the municipality where the court is established is charged.

Laws 1977, c. 256, § 27-103, eff. July 1, 1978.

§ 27-104. Judges

A. The number of judges for each municipal court shall be determined by the governing body of the municipality where the court is established. For the purpose of this article, judge includes judges. The judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the municipal governing body. The judge of any municipal court shall be licensed to practice law in the State of Oklahoma, except as provided in subsections B and C of this section. He shall serve for a term of two (2) years, expiring on a date fixed by ordinance, and until his suc-

cessor is appointed and qualified, unless sooner removed by the vote of a majority of all members of the governing body for such cause as is provided by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term. Except in cities of more than two hundred thousand (200,000) population, nothing herein shall be construed to prevent the judge from engaging in the practice of law in any other court during his tenure of office. The judge shall be paid a salary to be fixed by the municipal governing body. He shall be paid in the same manner as other municipal officials.

B. In any municipality of less than seven thousand five hundred (7,500) population, the mayor, with the consent of the governing body, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county;

2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality; or

3. Any suitable resident of the municipality. The mayor may be designated as judge of the municipal court upon approval of the governing body.

C. In municipalities of seven thousand five hundred (7,500) or more population, if no attorney licensed to practice law in Oklahoma resides in the county in which the municipality is located, who is at the time of appointment willing to accept the appointment as judge, the mayor, with the consent of the governing body, may appoint any suitable and proper person as judge.

D. If the judge of the municipal court is not a licensed attorney, the trial shall be to the court, and the court may not impose a fine and costs which, taken together, exceed Twenty Dollars ($20.00) and may not order the defendant imprisoned, except for the nonpayment of fines or costs, or both.

Laws 1977, c. 256, § 27–104, eff. July 1, 1978.

§ 27–105. Prohibition on change of venue—Disqualification of judge

No change of venue shall be allowed from any municipal court, but the judge of the municipal court may be disqualified under the same terms and conditions as are now provided by law for courts of record, and in case of such disqualification a special judge shall be appointed as provided in Section 27–104 of this title.

Laws 1977, c. 256, § 27–105, eff. July 1, 1978.

§ 27-106. Acting judge—Alternate judge—Compensation

In the event of disqualification of the judge in a particular case, or his absence or inability to act, the mayor of the municipality may appoint some person, qualified as provided in Section 27–104 of this title, as acting municipal judge of the court in the place of the judge during his absence or inability to act or in a case wherein the judge is disqualified; or, in its discretion, the municipal governing body may provide by ordinance for the appointment of an alternate judge of the court, in the same manner and for the same term as the judge and possessing the qualifications prescribed by Section 27–104 of this title, who shall sit as acting judge of the court in case of the absence, inability or disqualification of the judge. If both the judge and the alternate judge are unable to sit, the mayor may appoint an acting judge as provided in this section. The municipal governing body, by ordinance, shall provide for the compensation of an acting judge of the court.

Laws 1977, c. 256, § 27–106, eff. July 1, 1978.

§ 27-107. Vacancies in office of judge

Vacancies in the office of the judge of any municipal court shall be filled in the same manner as provided for the appointment of the judge in the first instance.

Laws 1977, c. 256, § 27–107, eff. July 1, 1978.

§ 27-108. Municipal attorney as prosecuting officer

The municipal attorney of each municipality where a municipal court is established shall be the prosecuting officer of the municipal court. He shall have full power to prosecute for the violations of any ordinance of the municipality in the municipal court and shall have the power to prosecute and resist appeals and proceedings in error and review from the municipal court.

Laws 1977, c. 256, § 27–108, eff. July 1, 1978.

§ 27-109. Clerk of court—Duties

The municipal clerk of any municipality where a municipal court is established, or a deputy designated by him, shall be ex officio the clerk of the municipal court. The clerk shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;

2. Administer oaths required in judicial or other proceedings before the court;

3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;

4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and

5. Receive and give receipt for and disburse or deliver to the municipal treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

Laws 1977, c. 256, § 27–109, eff. July 1, 1978.

§ 27-110. Court marshal—Duties

The municipal governing body, upon the recommendation of the judge of the municipal court, may designate any appropriate person who is a resident of the municipality to serve as marshal, and in the absence of such a designation, the chief of police or corresponding officer of the municipality shall be ex officio marshal of the court. The marshal shall execute any writs and other process directed to him, except as herein otherwise provided, and such duty may be performed by any deputy marshal or by any members of the police force of the municipality, as the case may be.

Laws 1977, c. 256, § 27–110, eff. July 1, 1978.

§ 27-111. Bond of clerk and judge—Form

A. The clerk of each municipal court shall give bond to the governing body of the municipality where the court is established. The bond shall be approved by the governing body and shall be in an amount to be fixed by the governing body. The bond shall be in substance as follows:

I, _____, clerk of the Municipal Court of _____, State of Oklahoma, and _____ and _____, his sureties, do jointly and severally agree to pay on demand each and every person who may be entitled thereto, all such sums of money as the said clerk may become liable to pay, on account of any moneys which may come into his hands, by virtue of his office.

Dated at _____, this _____ day of _____, 19__.

_____

(Signed)

B. The municipal governing body may provide that the judge, the alternate judge, and an acting judge, or any of them, shall give a bond to the governing body of the municipality where the court is established. If a bond is required, it shall be in an amount to be fixed by the governing body. It shall be conditioned in the same manner as the bond that is required of the clerk of the court, and it shall be approved by the governing body.

Laws 1977, c. 256, § 27–111, eff. July 1, 1978.

§ 27-112. Fees, fines and forfeitures—Dispositions

All of the fees, fines and forfeitures which come into the municipal court shall be paid by the clerk of the court to the municipal treasurer at least twice each month. The treasurer shall credit such deposits to the fund designated by the municipal governing body. The court clerk shall make duplicate receipts for the fees, fines and forfeitures collected by him, one of which shall be retained by the municipal treasurer together with a detailed statement of the items of all costs, the style of the case in which they were paid, and the name of the party paying the same.

Laws 1977, c. 256, § 27–112, eff. July 1, 1978.

§ 27-113. Procedure—Judicial notice of statutes and ordinances—Writs and process

The code of procedure in the municipal court, except as may be otherwise provided herein, shall be the same as is now provided by law for the trial of misdemeanors. The court shall take judicial notice of state statutes and the ordinances of the municipality in which it is located. Writs and processes of the court may be issued by the judge or clerk thereof to any proper officer. All writs and process of the municipal court wherein a violation of a municipal ordinance is charged shall be directed to the marshal or the chief of police of the municipality or to some other appropriate peace officer.

Laws 1977, c. 256, § 27–113, eff. July 1, 1978.

§ 27-114. Rules for conduct of court business

The judge of each municipal court may prescribe rules, consistent with the provisions of this article, for the proper conduct of the business of the municipal court.

Laws 1977, c. 256, § 27–114, eff. July 1, 1978.

Historical Note

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§ 27-115. Prosecutions by verified complaint—Style

All prosecutions commenced in the municipal court shall be by complaint which shall be subscribed by the person making complaint and shall be verified before a judge, the court clerk, a deputy court clerk, or a police officer. However, no warrant for arrest shall be issued until the complaint has been approved by the municipal attorney or the judge of the municipal court. All prosecutions for the violation of municipal ordinances shall be styled, "The _____ (City or Town) of _____ (name the municipality) vs. _____ (naming the person or persons charged)."

Laws 1977, c. 256, § 27-115, eff. July 1, 1978.

§ 27-116. Arraignment—Fines in lieu of appearance

The arraignment shall be made by the court. The judge or the prosecuting attorney shall read the complaint to the defendant, inform him of his legal rights and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. The municipal governing body by ordinance may prescribe a schedule of fines which the defendant may pay in lieu of his appearance before the municipal court and such payment shall constitute a final determination of the cause against the defendant.

Laws 1977, c. 256, § 27-116, eff. July 1, 1978.

§ 27-117. Arrests—Release by signing citation—Bail—Amount and conditions—Temporary cash bond

A. Whenever a resident of a municipality served by a municipal court is arrested for the violation of any ordinance, traffic or nontraffic, by a law enforcement officer, the officer shall immediately release such person if he acknowledges receipt of a citation by signing it unless it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released or that the person will not appear in response to the citation. If such person fails to appear in response to the citation a warrant shall be issued for his arrest and his appearance shall be compelled.

B. Whenever a resident of a municipality served by a municipal court is arrested by a law enforcement officer for the violation of any ordinance and is not released by being permitted to sign a citation as provided in subsection A of this section, he shall be admitted to bail either before or after arraignment, or released on his own recognizance.

C. Whenever a nonresident of a municipality served by a municipal court is arrested for a violation, other than a traffic violation, by a law enforcement officer, the defendant shall be eligible to be admitted to bail either before or after arraignment.

D. A municipality may require a person who is arrested for a municipal traffic violation by a law enforcement officer to comply with the procedures provided by law in Section 1114.1 of Title 22 of the Oklahoma Statutes for state traffic violations with respect to release of the arrested person and the methods of posting bail shall apply:

1. Posting cash bail;

2. Depositing with the arresting officer a "guaranteed arrest bond certificate"; or

3. Depositing with the arresting officer a valid license to operate a motor vehicle, in exchange for a receipt therefor issued by the arresting officer, which shall be recognized as an operator's license and shall authorize the person's operation of a motor vehicle to the date of his hearing but not to exceed twenty (20) days. Provided, that, this procedure for depositing a valid operator's license shall not be used unless authorized by a duly enacted ordinance.

E. The amount and conditions of bail granted under subsections B and C of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release by recognizance. In the event of arrests at night, or other emergency, or when the judge is not available, the chief of police or his designated representative shall be authorized by the judge under such conditions as shall be prescribed by the judge to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused, but in no event shall the cash bond be more than the maximum fine provided by ordinance for each offense charged. The chief of police or his designated representative is authorized subject to such conditions as shall be prescribed by the judge to release a resident of the municipality on his own recognizance.

Laws 1977, c. 256, § 27–117, eff. July 1, 1978. Amended by Laws 1978, c. 261, § 1, eff. July 1, 1978.

§ 27–118. Failure to appear according to terms of bond—Forfeiture

If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or upon any other occasion

when his presence in court or before the magistrate may be lawfully required, the judge may direct that fact to be entered upon the court minutes, thereby declaring the bond to be forfeited. Without advancing court costs, the judge shall then cause the forfeiture to be certified to the district court in the county where the situs of the municipal government is located, where it shall be entered upon the judgment docket and shall have the full force and effect of a district court judgment. At such time as the forfeiture is entered upon the district court judgment docket, the district court clerk shall proceed in accordance with the provisions of Sections 1330 through 1333 and 1335 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes. Court costs shall be collectible from the proceeds of the bond.

Laws 1977, c. 256, § 27–118, eff. July 1, 1978.

§ 27-119. Jury trials—Qualifications of jurors

In all prosecutions in the municipal court, for any offense punishable by a fine of more than Thirty-five Dollars ($35.00), including costs, or by imprisonment, or by both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has compiled its penal ordinances in accordance with the provisions of Sections 14–109 and 14–110 of this title. If the municipality has not compiled its ordinances as provided by law, the fine shall not exceed Twenty Dollars ($20.00) including costs. In prosecutions for all other offenses, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

Laws 1977, c. 256, § 27–119, eff. July 1, 1978.

§ 27-120. Selection and summons of jurors

Jurors in the municipal court shall be selected under the same terms and conditions as are provided for by law for the district courts. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel a requested number

of jurors in the same manner as is provided by law for the district court until the number requested, who from their addresses appear to reside within the corporate limits of the municipality, is drawn, and to prepare a list of names drawn and certify such list to the judge of the municipal court. On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list. The judge of the municipal court shall make written request to the chief judge of the district court for a stated number of additional jurors if, after allowance of claimed statutory exemptions, the listed number is found to be insufficient. Summons of the prospective jurors shall be issued as set out by ordinance, and may be served in person by the chief of police or any member of the police force of the municipality, or may be served by the clerk of the municipal court by mail.

Laws 1977, c. 256, § 27–120, eff. July 1, 1978.

§ 27-121. Fees and mileage of jurors and witnesses

The municipal governing body shall determine by ordinance the fees and mileage that shall be paid to jurors and witnesses in a municipal court. However, no witness fee shall be paid to any police or peace officer. The jury fee and mileage due jurors and witnesses shall be paid as provided by ordinance.

Laws 1977, c. 256, § 27–121, eff. July 1, 1978.

§ 27-122. Enforcement of payment of fines or costs by imprisonment—Persons unable to pay

If a defendant who is financially able refuses or neglects to pay a fine or costs or both, payment may be enforced by imprisonment until the same shall be satisfied at the rate of Two Dollars ($2.00) per day. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court in the county where the situs of the municipal government is located where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.

Laws 1977, c. 256, § 27–122, eff. July 1, 1978.

§ 27-123. Suspension of judgment or costs—Reconfinement

Whenever any person shall be convicted in the municipal court of violating a municipal ordinance, the judge trying the cause, after sentence, may suspend the judgment or costs or both and allow the person so convicted to be released upon his own recognizance. Any person so released shall be required to report at such times and to such person or officer as the judge shall direct. The judge may cause a warrant to be issued for any person so released if it shall be made to appear to the judge that such person:

1. Has been guilty of the violation of any law after his release;

2. Is habitually associating with lewd or vicious persons; or

3. Is indulging in vicious habits.

Upon the issuance of the warrant by the judge, the person shall be delivered forthwith to the place of confinement to which he was originally sentenced and shall serve out the full term for which he was originally sentenced.

Laws 1977, c. 256, § 27–123, eff. July 1, 1978.

§ 27-124. Supervision of juveniles on parole or probation

In addition to the duties otherwise provided by law, the judge of each municipal court, or some other person designated by the governing body of the municipality where the court is established, shall be required to supervise all juveniles who are either on parole or serving probation terms or suspended sentences pronounced and adjudged by the municipal court.

Laws 1977, c. 256, § 27–124, eff. July 1, 1978.

§ 27-125. Contempt of court

The judge of each municipal court shall have power to enforce due obedience to orders, rules and judgments made by him and may fine or imprison for contempt offered to the judge while holding his court or to process issued by him in the same manner and to the same extent as the district courts of Oklahoma.

Laws 1977, c. 256, § 27–125, eff. July 1, 1978.

§ 27-126. Costs

The municipal governing body shall determine by ordinance the costs that shall be charged and collected by the clerk of the court, but such costs shall not exceed the sum of Ten Dollars ($10.00) plus the fees and mileage of jurors and witnesses.

Laws 1977, c. 256, § 27–126, eff. July 1, 1978.

§ 27-127. Prosecution for same offense in another court prohibited

When a defendant has been in jeopardy for the same or any lesser included offense in a municipal court, he shall not be prosecuted in another court for the same or a lesser included offense.

Laws 1977, c. 256, § 27-127, eff. July 1, 1978.

§ 27-128. Writs of mandamus, prohibition and certiorari

The district court in each county wherein a municipal court is established shall have the same jurisdiction to issue to the municipal court writs of mandamus, prohibition and certiorari as the Supreme Court now has to issue such writs to courts of record.

Laws 1977, c. 256, § 27-128, eff. July 1, 1978.

§ 27-129. Appeals

A. An appeal may be taken from a final judgment of the municipal court by the defendant by filing in the district court in the county where the situs of the municipal government is located within ten (10) days from the date of the final judgment a notice of appeal and by filing a copy of the notice with the municipal court. In case of an appeal, a trial de novo shall be had, and there shall be a right to a jury trial, if the offense is punishable by a fine of more than Thirty-five Dollars ($35.00), including costs.

B. Upon conviction, at the request of the defendant, or upon notice of appeal being filed, the judge of the municipal court shall enter an order on his docket fixing an amount in which bond may be given by the defendant, in cash or sureties for cash in an amount of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00); except that if the conviction involved a fine only, the amount of the bond shall be no greater than twice the amount of such fine. Bond shall be taken by the clerk of the court wherein judgment was rendered. Any pledge of sureties must be approved by a judge of the court.

C. Upon appeal being filed the judge shall within ten (10) days thereafter certify to the clerk of the appellate court the original papers in the case. If the papers have not been certified to the appellate court, the prosecuting attorney shall take the necessary steps to have the papers certified to the appellate court within twenty (20) days of the judgment, and failure to

do so, except for good cause shown, shall be grounds for dismissal of the charge by the appellate court, the cost to be taxed to the municipality. The certificate shall state whether or not the municipal judge hearing the case was a licensed attorney in Oklahoma.

D. All proceedings necessary to carry the judgment into effect shall be had in the appellate court.

Laws 1977, c. 256, § 27–129, eff. July 1, 1978.

§ 27-130. District attorney to defend appeals in certain cases

The district attorney, and his assistants, shall defend any appeal from a municipal court in his district that has no municipal attorney who is paid a salary in excess of a rate of Three Thousand Six Hundred Dollars ($3,600.00) per annum.

Laws 1977, c. 256, § 27–130, eff. July 1, 1978.

§ 27-131. Orders relative to procedures and practices by Supreme Court

The Supreme Court is authorized to issue orders of statewide application relative to procedures in and practices before the municipal courts and appeals therefrom, subject to the provisions of this article, and under its general superintending control of all inferior courts, shall have the power and authority by and through the Chief Justice of the Supreme Court, to call annual conferences of the judges of the municipal courts of Oklahoma to consider matters calculated to bring about a speedier and more efficient administration of justice.

Laws 1977, c. 256, § 27–131, eff. July 1, 1978.

§ 27-132. Appeal to Court of Criminal Appeals

An appeal may be taken to the Court of Criminal Appeals from the final judgment or order of a district court in an appeal from a final judgment of a municipal court in the same manner and to the same extent that appeals are taken from a district court to the Court of Criminal Appeals.

Added by Laws 1978, c. 248, § 1, eff. July 1, 1978.

APPENDIX 6.

CC-6486462 Sept. 16, 1982

IN THE MUNICIPAL COURT OF THE [illegible] OF OKLAHOMA CITY, OKLA.

CC 6486462

CITY OF [illegible] CITY)
COUNTY OF OKLAHOMA) SS.
STATE OF OKLAHOMA)

COMPLAINT/INFORMATION

CC-6486462

The undersigned being duly sworn upon oath deposes and says that:

The City of Oklahoma City, Plaintiff, VS.

DEFENDANT, (NAME: LAST, FIRST, MIDDLE)
Wheaton Robert

ADDRESS
1000 SW 25

ZIP

CITY
OKLA CITY OKLA

STATE

TELEPHONE	DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT
235-0956		W	M		

AGE | SS. OR D/L NUMBER

EMPLOYER ADDRESS | TELEPHONE

DID ON OR ABOUT(DATE) 8-25-82 AT(TIME) 11:15AM

AT(LOCATION) 600 SW 25

WITHIN THE CORPORATE LIMITS OF THE CITY OF OKLAHOMA CITY COMMIT THE OFFENSE OF:

OPERATING A BUSINESS IN R2 Residential Zone 2 FAMILY RESIDENTIAL ZONE

BY THE ACT OF FAILING TO CEASE THE OPERATION OF A BUSINESS IN R2 ZONE

CODE 2U1

ORD. VIOLATION: ☐ANIMAL ☐CRIMINAL ☐LAKE OR PARK ☒CODE ENFORCEMENT ☐FIRE

INC NO. 19101112

ISSUING DEPARTMENT COMM. NO.

The undersigned further states that just and reasonable grounds exist that the person above named committed the Offense violation herein set forth contrary to Law.

John Beck
COMPLAINANTS SIGNATURE

ADDRESS 208 N WALKER TEL. NO. 271-2365
IF OTHER THAN CITY OFFICIAL

SUBSCRIBED AND SWORN BEFORE ME THIS 30 DAY

OF Aug, 19 82

Ed Le Blanc DCC
NAME TITLE

WITNESS: ADDRESS TELEPHONE

COURT DATE 9 DAY OF 16 19 92 AT 8:30 AM

ACKNOWLEDGEMENT

X Robert Wheaton 8-27-82
SIGNATURE OF DEFENDANT DATE

THIS IS NOT A PLEA OF GUILT 2.

A 6 (a)

BEST AVAILABLE COPY

CC-6486462 Sept. 16, 1982

(back side) Guilty

Plea and/or Waiver of Appearance

I, the undersigned, do hereby enter my appearance on the complaint of the [illegible] charged on other side of this Summons. I have been informed of [illegible] to a trial in conformance with 22 O.S. 1971, Sec. 114.1.

☐ I do hereby Plead Guilty to said Offense as charged and waive my rights to a hearing by Court. I further agree to pay the Penalty prescribed for my Offense.

☐ I do hereby Plead Not Guilty to said Offense as charged, posting amount designated as my bond for appearance in Court.

DEFENDANT'S SIGNATURE

Amount: $ Date

BOND:

Posted Bond in the Amt. of $25.00 Receipt No. 117561

Date 9/16/82 Clerk

PAYMENT
IN THE AMOUNT OF $ Receipt No.
RECEIVED AS PER COURT SCHEDULE

DATE CLERK

ABSTRACT OF COURT RECORD

DATE	ENTRY
	Plea: ☒ Not Guilty ☐ Guilty
	☐ Bond Forfeited
	☐ Bench Warrant
	☐ Dismissed, Want of Prosecution
	Found: ☐ Not Guilty ☒ Guilty
	SENTENCE:
SEP 0	1982 [illegible] 16 Susp Fi
SEP 16	1982 Fi 25.00
	Docket Entry: Appeal and set at $25.00. The attached papers are or to be certified as the original documents in the [illegible] Municipal Court.

BEST AVAILABLE COPY

CC-6336761 Oct. 8, 1981

IN THE MUNICIPAL COURT OF THE CITY OF OKLAHOMA CITY, OKLA. CC-6336761

CITY OF OKLAHOMA CITY)
COUNTY OF OKLAHOMA) SS. COMPLAINT/INFORMATION
STATE OF OKLAHOMA)

The undersigned of lawful duty sworn, upon oath deposes and says that:

The City of Oklahoma City, Plaintiff, VS.

DEFENDANT. (NAME: LAST, FIRST, MIDDLE)
Wheaton Robert

ADDRESS
600 SW 25

ZIP

CITY
Oklahoma City

STATE
Okla

TELEPHONE	DATE OF BIRTH	RACE	SEX	HEIGHT	WEIGHT
235-0955		W	M		

AGE | SS. OR D/L NUMBER

EMPLOYER ADDRESS 600 SW 25 TELEPHONE

DID ON OR ABOUT (DATE) 9-27-81 AT (TIME) 11:20 AM

AT (LOCATION) 600 SW 25

WITHIN THE CORPORATE LIMITS OF THE CITY OF OKLAHOMA CITY COMMIT THE OFFENSE OF:
Allowing Retail Business in R-2 2 Family Residental District

BY THE ACT OF Failure To Cease Business After Prior Written Notice

24-3200.4 B-1
CODE

ORD. VIOLATION ☐ ANIMAL ☐ CRIMINAL ☐ LAKE OR PARK ☒ CODE ENFORCEMENT
INC NO. ☐ FIRE 9/01/81

ISSUING DEPARTMENT CODE NO.

The undersigned further states that just and reasonable grounds exist that the person above named committed the Offense violation herein set forth contrary to

Thomas Young
COMPLAINANT'S SIGNATURE

ADDRESS IF OTHER THAN CITY OFFICIAL TEL. NO.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 25th DAY OF September 81

D. Verne Hudson D.C.C.
NAME TITLE

WITNESS: ADDRESS TELEPHONE

Defendant Refused To Sign Citation-

COURT DATE 8 DAY OF Oct 19 81 AT 9:30 A.M.

ACKNOWLEDGEMENT

X
SIGNATURE OF DEFENDANT DATE

THIS IS NOT A PLEA OF GUILT Not Guilty

This entire/complete court record was presented to the trial court on Nov. 1, 1982 (see original record page 8)

CC-6336761 Oct. 8, 1981

(back side) Not Guilty

Plea and/or Waiver of Appearance

I, the undersigned, do hereby enter my appearance on the complaint of the Offense charged on other side of this Summons. I have been informed of my right to a trial in conformance with 22 O.S. 1971, Sec. 114.1.

☐ I do hereby Plead Guilty to said Offense as charged and waive my rights to a hearing in Court. I further agree to pay the Penalty prescribed for my Offense.

☐ I do hereby Plead Not Guilty to said Offense as charged, posting account designated as my bond for appearance in Court.

DEFENDANT'S SIGNATURE

Amount: $ Date

BOND:

Posted Bond in the Amt. of $ Receipt No.

Date Clerk

PAYMENT
IN THE AMOUNT OF $ Receipt No.
RECEIVED AS PER COURT SCHEDULE

DATE CLERK

ABSTRACT OF COURT RECORD

DATE	ENTRY
10-8-81	Plea: ☒ Not Guilty ☐ Guilty
	☐ Bond Forfeited
	☐ Bench Warrant
	☐ Dismissed, Want of Prosecution
OCT 8 1981	Record: ☒ Not Guilty ☐ Guilty
	SENTENCE:

This entire/complete court record was presented to the trial court on Nov. 1, 1982 (see original record page 8)

No. _____

IN THE

Supreme Court of the United States

October Term, 1985

Robert Wheaton, Appellant

Versus

The City of Oklahoma City; State of Oklahoma; The Court of Criminal Appeals of the State of Okla., Ed Parks, Presiding Judge, Tom Brett, Judge, Hez Bussey, Judge. Appellees

On Appeal from the Court of Criminal Appeals of the State of Oklahoma

Jurisdictional Statement

The City of Oklahoma City
Robert Allen, Counselor
309 Municipal Building
Oklahoma City, Ok. 73102
Attorney for the Appellee
(405) 231-2451

Robert Wheaton
2810 S. Harvey
Okc,Ok. 73109
(405) 235-0955
Pro se for the
Appellant

The Court of Criminal Appeals of the State of Oklahoma, Michael Turpen, Attorney General, for Oklahoma, State Capital, Okc,Okla. 73105.
(405) 521-3921 Attorney for the Appellees